

## § 1218.1

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AUTHORITY: 7 U.S.C. 7411–7425 and 7 U.S.C. 7401.

SOURCE: 65 FR 7654, Feb. 15, 2000, unless otherwise noted.

### Subpart A—Blueberry Promotion, Research, and Information Order

SOURCE: 65 FR 43963, July 17, 2000, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 1218 appear at 66 FR 37118, 37119, July 17, 2001.

EDITORIAL NOTE: Nomenclature changes to part 1218 appear at 71 FR 77245, Dec. 26, 2006.

### DEFINITIONS

#### § 1218.1 Act.

*Act* means the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7401–7425; Pub. L. 104–127; 110 Stat. 1029), or any amendments thereto.

#### § 1218.2 Blueberries.

*Blueberries* means cultivated blueberries grown in or imported into the United States of the genus *Vaccinium* *Corymbosum* and *Ashei*, including the northern highbush, southern highbush, rabbit eye varieties, and any hybrid, and excluding the lowbush (native) blueberry *Vaccinium Angustifolium*.

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#### § 1218.3 Conflict of interest.

*Conflict of interest* means a situation in which a member or employee of the U.S. Highbush Blueberry Council has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Council for anything of economic value.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37118, July 17, 2001; 71 FR 44554, Aug. 7, 2006]

#### § 1218.4 Crop year.

*Crop year* means the 12-month period from November 1 through October 31 of the following year or such other period approved by the Secretary.

#### § 1218.5 Department.

*Department* means the U.S. Department of Agriculture.

#### § 1218.6 Exporter.

*Exporter* means a person involved in exporting blueberries from another country to the United States.

#### § 1218.7 First handler.

*First handler* means any person, (excluding a common or contract carrier), receiving blueberries from producers and who as owner, agent, or otherwise ships or causes blueberries to be shipped as specified in the Order. This definition includes those engaged in the business of buying, selling and/or offering for sale; receiving; packing; grading; marketing; or distributing blueberries in commercial quantities. This definition includes a retailer, except a retailer who purchases or acquires from, or handles on behalf of any producer, blueberries. The term first handler includes a producer who handles or markets blueberries of the producer's own production.

#### § 1218.8 Fiscal period.

*Fiscal period* means a calendar year from January 1 through December 31, or such other period as approved by the Secretary.

#### § 1218.9 Importer.

*Importer* means any person who imports fresh or processed blueberries into the United States as a principal or as an agent, broker, or consignee of

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any person who produces or handles fresh or processed blueberries outside of the United States for sale in the United States, and who is listed in the import records as the importer of record for such blueberries.

### § 1218.10 Information.

*Information* means information and programs that are designed to increase efficiency in processing and to develop new markets, marketing strategies, increase market efficiency, and activities that are designed to enhance the image of blueberries on a national or international basis. These include:

(a) *Consumer information*, which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of blueberries; and

(b) *Industry information*, which means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the blueberry industry, and activities to enhance the image of the blueberry industry.

### § 1218.11 Market or marketing.

(a) *Marketing* means the sale or other disposition of blueberries in any channel of commerce.

(b) To *market* means to sell or otherwise dispose of blueberries in interstate, foreign, or intrastate commerce.

### § 1218.12 Order.

*Order* means an order issued by the Secretary under section 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

### § 1218.13 Part and subpart.

*Part* means the Blueberry Promotion, Research, and Information Order and all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Order shall be a *subpart* of such part.

### § 1218.14 Person.

*Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

### § 1218.15 Processed blueberries.

*Processed blueberries* means blueberries which have been frozen, dried, pureed, or made into juice.

### § 1218.16 Producer.

*Producer* means any person who grows blueberries in the United States for sale in commerce, or a person who is engaged in the business of producing, or causing to be produced for any market, blueberries beyond the person's own family use and having value at first point of sale.

### § 1218.17 Promotion.

*Promotion* means any action taken to present a favorable image of blueberries to the general public and the food industry for the purpose of improving the competitive position of blueberries both in the United States and abroad and stimulating the sale of blueberries. This includes paid advertising and public relations.

### § 1218.18 Research.

*Research* means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of blueberries, including research relating to nutritional value, cost of production, new product development, varietal development, nutritional value, health research, and marketing of blueberries.

### § 1218.19 Secretary.

*Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

### § 1218.20 Suspend.

*Suspend* means to issue a rule under section 553 of title 5, U.S.C., to temporarily prevent the operation of an order or part thereof during a particular period of time specified in the rule.

### § 1218.21 Terminate.

*Terminate* means to issue a rule under section 553 of title 5, U.S.C., to cancel permanently the operation of an order